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ABSTRACT

This report reviews some of the efforts to license news reporters. The review summarizes court litigation concerning city and state legislation and federal efforts to screen or regulate the movements of journalists covering political news events. Highlighting the report are discussions of the United States Secret Service's role in issuing White House and National Press Passes, and both local and state legislation (subsequently revoked or ruled unconstitutional) concerning reporters' paying licensing fees and making financial disclosure in Massachusetts, Alabama, California, and Illinois. The report concludes that the fundamental questions of which credentials are appropriate, who should issue the credentials, and what guidelines should be used in determining the issuance or denial of press credentials remain unanswered. (RL)

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FREEDOM OF INFORMATION CENTER REPORT NO. 440

REPORTER LICENSING

This report was written by Leslie C. Henderson, a master's candidate at the University of Missouri School of Journalism.

Paul Shinoff and Howard Herschel each applied for press cards: Paul Shinoff to the Sand Francisco Police Department, Herschel to the National Press Registry. Shinoff didn't get one; Herschel did. There's only one problem — Howard Herschel is a cat.

Herschel — with a little help from his owner — sent in his application and the $5 fee to the NPR, a business enterprise in Half Moon Bay, Calif.[1] Herschel was identified as a freelance writer for **The Cat's Meow**, a fictitious fashion magazine. He listed his previous journalism experience as a stint with the **Los Gatos Register**, an equally fictitious publication.[2]

A week later, the laminated, wallet-size press identification card arrived. (For extra charge, the NPR sent the cat a sticker for his car announcing — in 72-point bold type — that he was a member of the "Press.")[3]

The NPR promised that "if we are asked to verify your registration we will check our files and verify that you are registered with us as a member of the working press."[4] The key words are "with us."

The Shinoff/Herschel case illustrates part of a growing debate over which, if any, credentials are appropriate for a free press and who should issue the credentials.

At the federal level, the U.S. Secret Service is responsible for the setting of standards for the issuance or denial of two important press passes — the National Press Pass and the White House Press Pass.

The two are not interchangeable. Members of the news media who hold White House Press Passes must obtain a National Press Pass if they intend to cover events outside the White House. Similarly, the National Press Pass is not honored for access to the White House.[5]

National Press Pass

The National Press Pass was initiated during the 1980 presidential campaign. According to the Secret Service, the purpose of the pass is two-fold: To identify accredited reporters and to minimize security risks.[6]

The pass, laminated in plastic with a brass grommet so that it may be worn around the neck, is described by the New York Times (7-13-80) as entitling members of the news media to "stand or sit in special areas and ride on the press bus without further identification."

During the 1980 campaign, approximately 29,500 National Press passes were issued by the Secret Service, according to John W. Warner Jr., assistant to H. Stuart Knight, director of the Secret Service.[7] Of these, 2,500 were issued to reporters in the Washington, D.C. area.[8] The Secret Service does not "keep a record of how many passes were denied or a record of the instances when a trip pass was issued in lieu of a National Press Pass."[9] (A journalist may request a pass for a single event if he prefers.)

The National Press Pass is viewed by the Secret Service as an extension of the Master Press Index.[10] Established in 1977 (New York Times, 7-13-80), the Master Press Index includes the name, sex, race, date and place of birth, Social Security number, telephone number, employer, specific occupation and any police record of approximately 62,000 journalists. All data is stored by the Secret Service in a central government computer.

In order to be eligible for the National Press Pass, an applicant must be listed on the Master Press Index.[11] In addition, each applicant must submit to the Secret Service a letter from his employer requesting the pass, provide one color passport-type photo, personally pick up the pass, present proper identification and execute a receipt.[12]

The procedure for freelancers is only slightly different. Freelancers and stringers applying for the National Press Pass must submit a signed letter of request containing the names of two other media contacts who can verify the applicant's employment. The other requirements remain the same as those for full-time news media employees.

Stuart H. Loory, a former managing editor for the Chicago **Sun-Times** and now in Washington, D.C., with Cable News Network, raises some questions about the application procedure. "Suppose you want to be a writer? What if you don't have two people who you've worked for to write letters for you? The First Amendment is still everyone's First Amendment."[13]

Loory says he has never used his National Press Pass. "One of the points I tried to make in my article (New York Times, 7-13-80) was that journalists are participating in their own licensing." Writes Loory in the same article: "Some of us cannot wait to get branded."

The Standing Committee of Correspondents, the Washington group that previously arranged for convention press credentials, objects to the extent of information required for accreditation by the Secret Service — more than is required by the government in census or tax data processing, or for House, Senate or White House accreditation.[14]

All applicants for the National Press Pass — full-time

Summary: The licensing of reporters has been attempted through a variety of means over the years. This report reviews some of those efforts and focuses on the federal government's National and White House press passes.

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members of the news media, stringers and freelancers — are checked by the Secret Service before the pass is issued. The names of those seeking accreditation are run (New York Times, 7-13-80) through the National Criminal Information Center's computers, the Computerized Criminal History and other Federal Bureau of Investigation files, as well as being checked against local police files.

"We are concerned with types of crimes we wouldn't want in a presidential environment — assault, murder, dealing in explosive devices, firing a firearm," explains Warner in the New York Times (7-13-80). "Say a person has a history of mental instability, we watch to see if his or her status is deteriorating."

What, specifically, are the set of standards used by the Secret Service to determine the issuance or denial of the National Press Pass?

According to a telephone conversation (3-20-81) with Secret Service agent Ed Dansereau, "We're pretty liberal. Each case is handled individually." The question of accreditation is handled on a "case by case basis," he says.

The National Press Pass is good anywhere the Secret Service has "protectees," who usually are "high-powered people," Dansereau says. The pass was conceived so the Secret Service would be able to identify accredited newsmen, he says, and should not be blown out of proportion.

The second aim of the National Press Pass, the minimization of security risks, is "meaningless," Loory says in a telephone conversation (4-13-81)

The March 30 assassination attempt on Ronald Reagan showed that "The whole thing is meaningless as far as protection of the President goes. I'll bet you a dollar everyone in that area had that press pass around their necks," Loory says.

Since the assassination attempt, the administration has been considering (Columbia Missourian, 4-9-81) ways of tightening security around the President. One consideration is the amount of publicity given his trips. Conceivably, tighter controls on the press may be introduced in an attempt to minimize security risks.

As it now stands, the National Press Pass poses "serious potential problems," Loory says.[16] "If this National Press System gets out of hand," writes Loory in the New York Times (7-13-80), "we are talking about nothing less than the potential licensing of news gatherers on a national level. That should give not only reporters, photographers and editors but also all Americans the willies."

White House Press Passes

The Secret Service also plays a determining role in who is issued a White House Press Pass.

Two reporters, denied White House Press Passes for "reasons of security," brought suit against the director of the Secret Service in a case that was decided by a U.S. District Court judge for the District of Columbia in 1977.

The judge ruled that the Secret Service was required to "devise and publicize narrow and specific standards" for the issuance of White House Press Passes.[17] Failure to do so infringed on the constitutional rights of plaintiffs Thomas Forcade and Robert Sherrill.

In addition, the court told the Secret Service it must:

1. provide the applicant with notice of the factual basis for the denial of credentials.
2. provide the journalist with an opportunity to rebut the charges and
3. issue a final written statement of the reasons for denial.[18]

Earlier (**Forcade v. Knight**, 7-7-76), the court had ruled that the Secret Service must render a decision on an application within a reasonable period of time after receipt.

Robert Sherrill, a Washington correspondent for The Nation and author of six books, brought the case to court when the Secret Service denied him a White House Press Pass in 1966.

When Sherrill asked why he had been rejected, Secret Service personnel replied "We can't tell you the reasons."[19] Sherrill reapplied for the press pass, and was again denied on the basis of the original Secret Service recommendation. Six years later, on June 26, 1972, Sherrill discovered, through a Freedom of Information request, why he had been denied White House Press credentials: "For Mr. Sherrill's information, he has been arrested and fined for physical assault in the State of Florida."[20]

The second plaintiff, Thomas Forcade, a correspondent for the Alternate Press Syndicate, an international news service that at that time represented more than 200 newspapers, was denied a White House Press Pass in 1971, also at the request of the Secret Service. The judgment of the District Court applies to both Forcade and Sherrill, although Forcade disclaimed further interest in the case after the defendent's appeal was lodged.

The opinion of the court reviewed the process then in effect for the issuance of press passes. It was disclosed that requests were routinely handled in the following manner: The application, submitted by the journalist to the White House Press Office, was reviewed by the office to determine that the applicant had credentials for the House and Senate press galleries. (Membership in the Periodical Press Galleries of Congress is determined by an association of correspondents.)

The White House Press Office further determined that the applicant resided in the Washington, D.C., area and was obliged to report from the White House on a regular basis. (This was usually verified by the editor of the publication for which the applicant was a correspondent.)

Once the journalist met the criteria of the White House Press Office, his application was forwarded to the Secret Service for a security check, which routinely included a background FBI investigation.

Thus, the court concluded in 1977 that:

> Whether a pass is then issued depends solely on the recommendation of the Secret Service. There exist no published or internal regulations stating the criteria upon which a White House press pass security clearance is based.[21]

The court gave the Secret Service 180 days to draw up a set of standards to be used in determining the issuance or denial of White House Press Passes. A copy of the standards (see sidebar) were secured for this report from the Department of the Treasury through a Freedom of Information Act request. The regulations are codified at title 31, Code of the Federal Regulations, Chapter IV, part 409 and became effective June 22, 1978.

Reporters As Private Detectives

In turning from the national to the state level, perhaps the most dramatic attempt at licensing reporters occurred in 1979 in Massachusetts.

A bill requiring investigative reporters to be licensed as private detectives was passed in the Massachusetts Senate and gained the preliminary approval of the House of Rep-

resentatives before it was declared unconstitutional by a joint judiciary committee of the two houses.

The bill, S.1093, would have required reporters and photographers to pay a $750 licensing fee, renewable annually for $400. The bill required (Boston Globe, 4-18-79) that print and electronic investigative reporters be 25 years of age, have three years experience and post a $5,000 bond. The licensing fee was payable to the state Department of Public Safety.

The legislation was designed (SNPA Bulletin-News, 4-9-79) to cover any person employed by "newsgathering organizations" who poses as someone else while gathering the news or who conducts 'secret surveillance of a person from a hidden vantage point by means of a camera, telescope or any other manner, or at night uses a specially adapted camera for such observation.'

The bill cleared the Senate after being amended to include the electronic news media and was passed by voice vote on the first reading in the House.

The licensing legislation was introduced by Sen. Denis L. McKenna, D-Somerville, who according to Publishers' Auxiliary (4-2-79) was miffed at a Boston Globe investigation that turned up evidence revealing one of his aides was drawing a full-time salary for a part-time job.

McKenna also sponsored a bill that would require statehouse reporters to file financial disclosure statements. The senator said (Boston Globe, 3-18-79) he saw no reason to put reporters "in a special class. They are no better or worse than politicians." McKenna added that, "Reporters have a sensitivity to the public. They should be able to say 'I have no other source of income other than the newspaper I'm working for.' "

"Ah, Sen. McKenna does do some weird things, doesn't he," said (Boston Globe, 3-18-79) a fellow Democratic legislator after the licensing and financial disclosure legislation was attacked in the Boston newspapers.

Part 409 of Title 31 — Money and Finance: Treasury Standard and Procedures Utilized in Issuing a Security Clearance in Connection with an Application for a Press Pass to the White House

409.1 Standard

In granting or denying a request for a security clearance made in response to an application for a White House press pass, officials of the Secret Service will be guided solely by the principle of whether the applicant presents a potential source of physical danger to the President and/or the family of the President so serious as to justify his or her exclusion from White House press privileges.

409.2 Procedures

(a)If the Special Agent in Charge of the Secret Service, Technical Security Division, in applying the standard set forth (above), anticipates that a denial of the security clearance should be issued, the applicant will be notificed in writing, by that official, of the basis for the proposed denial in as much detail as the security of any confidential source of information will permit. This notification will be sent by registered mail.

(b) The notification of the proposed denial sent to the applicant will also contain a statement advising the applicant of his right to respond to the proposed denial and to rebut any factual basis supporting the proposed denial by contacting the Assistant Director—Protective Operations, United States Secret Service, 1800 "G" Street, NW., Washington, D.C. 20223.

(c) The applicant shall be allowed thirty days from the date of the mailing of the proposed denial notification to respond in writing. The response shall consist of any explanation or rebuttal deemed appropriate by the applicant and will be signed by the applicant under oath or affirmation.

(d) If the applicant is unable to prepare a response within thirty days, an extension for one additional thirty day period will be granted upon receipt of the appplicant's written request for such an extension.

(e) At the time of the filing of the applicant's written response to the notification of the proposed denial the applicant may request and will be granted, the opportunity to make a personal appearance before the Assistant Director—Protective Operations of the Secret Service for the purpose of personally supporting his eligibility for a security clearance and to rebut or explain the factual basis for the proposed denial. This official shall exercise final review authority in the matter the applicant may be represented by counsel during this appearance.

(f)(1) On the basis of the applicant's written and personal response and the factual basis for the proposed denial, the Assistant Director—Protective Operation of the Secret Service will determine whether or not further inquiry or investigation concerning the issues raised, is necessary.

(2) If a decision is made that no such inquiry is necessary a final decision will be issued in conformity with paragraph (g) of this section.

(3) If a decision is made that such further inquiry is necessary the Assistant Director—Protective Operations of the Secret Service, will conduct such further inquiry as that official deems appropriate. At the official's discretion, the inquiry may consist of:

(i) The securing of documentary evidence;

(ii) Personal interviews;

(iii) An informal hearing;

(iv) Any combination of subdivisions (i) through (iii) of this subparagraph.

(g) On the basis of the applicant's written and personal response, the factual basis for the proposed denial and the additional inquiry provided for, if such inquiry is conducted, a final decision will be expeditiously made by the Assistant Director—Protective Operations of the United States Secret Service in accordance with the standard set forth (above). If a final adverse decision is reached, the applicant will be notified of this final decision in writing This notification will set forth, as precisely as possible and to the extent that security considerations permit, the factual basis for the denial in relation to the standard set forth (above). This notification will be sent by registered mail and will be signed by the Assistant Director—Protective Operations of the Secret Service.

Arthur Miller, a constitutional law professor at Harvard Law School, had other observations to make (Boston Globe, 3-18-79) about the attempted legislation.

> The bill reflects latent anxieties regarding some of the practices of such groups (investigative reporters). If it passed, it would probably be declared unconstitutional. But there is some concern that the press is behaving more like police than the police do. It's inevitable that some politician would try something like this.

"The First Amendment does not afford (reporters) the privilege they claim, which they have been getting away with for 300 years," McKenna said in the Boston Globe (4-18-79). "I think it is wrong that members of the media have greater rights than our law enforcement officials."

From Reporters to Chimney Sweeps

A 1980 ordinance in Granite City, Ill., a suburb of St. Louis, called (**Post-Dispatch**, 3-23-80) for the licensing and collecting of fees from more than 650 businesses, including reporters for newspapers, television and radio stations. The remainder of the businesses ranged from public libraries, fraternal organizations and nursing homes to church furnishing firms and chimney sweeps.

The proposal was drawn up by City Inspector Emerald Dawes, who used a telephone book to make certain the ordinance would be as inclusive as possible. Yet neither Dawes nor anyone else remembered including news reporters in the licensing ordinance. Someone else must have added the news reporters, said Dawes (**Post-Dispatch**, 3-23-80), although he did remember including a category that covers "court and convention reporters."

A $25 a year licensing fee was recommended for all reporters covering events in Granite City.

The ordinance, considered "unconstitutional and in conflict with the freedom of speech," was vetoed before Granite City Mayor Paul Schuler signed it.[22]

12¢ or $1,200

Efforts to regulate the press are not new, and press passes have been in effect for years. The media is generally accepting of the term "press pass," but will bristle at the word "license."

Thus, the reaction in Pittsburgh in 1971 could have been anticipated when a public safety director referred to the news press passes — issued at a $12 fee — as licenses. News media executives adamently protested the fee, forcing Mayor Peter F. Flaherty to revoke the $12 "service charge."

Frank Hawkins, editor of the Pittsburgh **Post-Gazette**, wrote (**Editor & Publisher**, 2-27-71):

> If the city can charge $12 for a press card, which it might require for access to public events, it can charge 12 cents or $1,200 — or any amount. It could through that device attempt to bar newsmen from coverage of events vitally affecting the lives of the citizens of this community.

Other news executives joined the protest, sending up a communal howl. "We will not submit to the city's licensing system for newsmen. . . .We shall proudly continue to play the role of news hounds, but will not submit to being licensed like dogs," said (**Editor & Publisher**, 2-27-71) John Troan, editor of the Pittsburgh **Press**.

Following the uproar raised by the media, Mayor Flaherty agreed to review the "service charge." The cards cost the city about $2 to process, and although many cities charge a nominal fee for press cards, Mayor Flaherty said the loss of revenue from the press cards would not significantly alter the budget.

During the previous year, 550 press cards and 75 placards had been distributed free of charge to Pittsburgh journalists and photographers. The Pittsburgh uproar subsided when the mayor announced that a new press card would be prepared free of charge to those who requested it.

Licensing of Newspaper Carriers

Attempts to license the press take forms other than requiring a license or permit for reporters or photographers.

In Providence, R.I., a 47-year-old ordinance requiring the licensing of persons who sell newspapers on the street suddenly was enforced in late 1969.

The ordinance (which applied to bootblacks as well), dated back to 1922 and stated (**Editor & Publisher**, 1-31-70):

> No person known as a bootblack or as a newsboy shall ply his trade or business in any of the streets, avenues or other public places in the city without a permit from the bureau of licenses issued as hereinafter provided.
>
> No permit shall be issued to a bootblack or newsboy until the parent or guardian of the applicant for such permit, if the applicant is a minor, or some other person approved by the chief of police, if the applicant is an adult, shall give to the chief of police satisfactory assurance of the good character of such applicant.

A $1.25 deposit fee was required for the identifying badges, which were to be worn on the front of the newsboys' caps. The deposit fee was refundable when the badges were returned. The ordinance also contained a clause that allowed the newsboys' licenses to be revoked for the usage of "indecent language."[23]

In a case brought by the Providence underground newspaper **Extra**, Judge Raymond J. Pettine ruled (Providence **Journal**, 1-14-70) that the ordinance was unconstitutional because it called for the chief of police to make a judgment about the "good character" of the applicants. The U.S. District Court in Providence declared the ordinance an infringement on the First Amendment guarantee of a free press.

In his Jan. 13 ruling, Pettine said (Providence **Journal**, 1-14-70) the language of the ordinance set it apart from other laws because "it allows a discretionary judgment of the 'good character' of the permit applicant as a condition precedent to the granting of the permit." The judge further declared:

> The Providence newsboy permit ordinance (is) unconstitutional as an impermissible direct restraint upon freedom of press and as a licensing scheme which vests overly broad and vague discretionary powers in the chief of police and the members of the licensing bureau.

Arguing for the **Extra** against the newsboy permit was First Amendment lawyer Hayden C. Covington, who stated (Providence **Journal**, 1-14-70), "If a newspaper boy can be required to wear a badge, then a minister or priest can also be required to wear a badge before he enters a pulpit or visits a parishioner."

Also involved in the case was the contention by the **Extra** that they had been singled out for harassment by the police. Covington told (Providence **Journal**, 1-14-70) the court, "The

truth of the matter is that the plaintiffs in this case have been arrested and harassed because of their much hated attitude on the war in Vietnam."

The judge described (Providence **Journal**, 1-14-70) the staff of the weekly underground newspaper as "a group of young people with a lifestyle unique to the accepted norms of society." He added that "the personnel are overwhelmingly of an obvious different culture to that which most of us have embraced."

Covington claimed the ordinance had been selectively enforced against the underground newspaper, saying (Providence **Journal**, 1-14-70), "There are a great multitude of newsboys who are not required to have the permit and badge. This great multitude compared to the few that are compelled to have it by the City of Providence proves discrimination."

In his ruling, the judge said the only evidence of selective enforcement was statistical — while there were 28 to 30 vendors of the Providence **Journal**, there were only 12 outstanding licenses. Thus, while some vendors didn't have permits and had not been arrested, Judge Pettine said (Providence **Journal**, 1-14-70) there was nothing in the record "showing a purposeful or intentional discrimination against the plaintiffs by the defendants (the city)."

The City of Providence appealed the unconstitutional ordinance ruling to the U.S. Court of Appeal in Boston. The appellate tribunal upheld the earlier decision, declaring the newsboy licensing ordinance unconstitutional.[24] The U.S. Court of Appeals concluded that there was "no governmental interest of any importance, that would be served by registration and identification."[25]

Financial Disclosures

A law requiring reporters to disclose their financial holdings and win accreditation from an ethics commission before being allowed to cover state government was signed (**Editor & Publisher**, 9-22-73) into effect by Alabama Gov. George Wallace on Sept. 14, 1973.

The law, struck down as unconstitutional by a federal court three months later, would have barred reporters who failed to comply with the legislation from covering "the state government in any way." Anyone found guilty under the law was subject to a $10,000 fine and 10 years in jail. A reporter who violated the law also was required to pay the state treasury three times the amount of his financial gain.

The same law required public officials to disclose their finances. The public officials, however, needed only to list (**Editor & Publisher**, 9-22-73) outside sources of income under the headings of "legal fees" or "tax-exempt bonds," while reporters were required to make specific disclosures.

A class action suit claiming the law violated the First and Fourteenth Amendments was filed by the Birmingham **Times**, the **Eagle Eye** (publication of the Alabama Democratic Party), and the state chapter of Sigma Delta Chi, a professional journalism society.

The three-judge court ruled (Milwaukee **Journal**, 12-22-73) in a 2-1 decision that the legislature could not single out an individual profession and require its members to disclose their finances.

Rep. Joe McCorquodale said (**Editor & Publisher**, 9-22-73) some reporters engaged in "moonlighting," which "should be disclosed to the public as well as for public officials." The provisions for the press' financial disclosures reportedly had been included (Milwaukee **Journal**, 12-22-73) in the legislation as an effort to prevent lobbyists from posing as reporters.

Professional Writer's License

In California during the early sixties, a descendent of frontiersman Kit Carson led a successful one-man protest against an ordinance requiring all professional writers to purchase a $25 writer's license. The Manhattan Beach ordinance threatened writers wih a $500 fine and/or a six-month jail sentence if they wrote without taking out a license.

"Of itself, this little incident does not mean very much. I am a relatively obscure writer in a city that most Americans never heard of. What difference does it make if I pay $25 for a license to write?" asked Charles Carson in a New York **Times**' article (4-6-64). "But," continued Kit Carson's grandson, a novelist, magazine writer and ghost writer:

> I have read a great deal about the Bill of Rights and I think this involves an important principle of freedom. When legislators start passing these laws in one place, the laws tend to spread from one town to another. They can be extended until they affect the freedom of all writers and the freedom of the people. I think this is a clear violation of the freedom of the press. Any writer could be taxed out of existence by legislators.

Walter Anderson, then city attorney for Manhattan Beach, took (New York **Times**, 4-6-64) a different view.

> What is so special about a writer? This is an occupational tax. Writing is an occupation. We are not discriminating against writers or anyone else. As a lawyer, most of my work is a product of the mind, just as a writer's. But I pay my licensing tax.

Two days after a 16-paragraph story discussing Carson's crusade appeared in the New York **Times**, the Manhattan Beach City council met (4-8-64) and ended the tax on writers.

Journalists Relinquish Passes

In various instances, reporters in the United States and Canada have turned in press passes issued by the police, saying (Montreal **Star**, 7-28-75) that "it is not up to the police any more than it is to any other group to choose the journalists that cover its activities."

The Quebec Federation of Professional Journalists protested a decision by the Montreal Urban community to permit only journalists with a council pass to cover police news. Under the plan, journalists would receive the pass only after having been approved by a four-member committee.

In Madison, Wis., members of the Madison Newspaper Guild turned in their police department-issued passes, saying (**Christian Science Monitor**, 7-6-71) the cards represented a "form of license."

"The power to license implies the power to withdraw the right." The members of the Guild "do not believe reporters should be licensed by the police to protect their constitutional rights," said Guild chairman Matt Pommer in the **Christian Science Monitor**.

The Guild also protested (**Christian Science Monitor**, 7-6-71) the "repeated police use in this country of undercover agents using press cards."

Other journalists have protested the use of press cards by non-media personnel. After an outcry by the regional chapter of the Sigma Delta Chi in Des Moines, the Iowa state legislature agreed (**The Quill**, 3-71) not to issue press creden-

tials to Republican and Democratic party members.

The protest was led by Sigma Delta Chi regional director and assistant city editor of the Des Moines Register and Tribune, William Kong. Kong decried the issuance of credentials to non-journalists who use the press accreditation to gather information for partisan press releases and party newsletters.

Following the SDX protest, the speaker of the Iowa House declared the party workers would be given lobbyist badges instead of press passes.

Arguments for Licensing

One of the most frequently heard reasons for licensing the press is that it would raise the standards of journalism. This opinion has been voiced in some journalistic quarters, as well as from those not in journalism. Thus, the lines between those who desire some sort of license or permit for journalists and those who are opposed to it are not always drawn along clearcut "journalistic" and "non-journalistic" lines.

In favor of licensing reporters is Robert R. Schwarz, executive editor of the Des Plaines Publishing Co., the publisher of seven weeklies in the Chicago area.

In an essay entitled "The Need to License Journalists and to Support Newspapers with Public Funds," Schwarz suggested that the first step toward licensing of journalists be the designation of a national journalism association empowered to decide which schools are qualified to teach professional journalism.

"Journalists would be licensed only after satisfactory completion of both the schooling and an internship." Schwarz says in **Newspaper Publishers Auxiliary** (9-10-74).

State or federal agencies would enforce the licensing, Schwarz said. The agency would be limited to ascertaining that all employees of a newspaper are licensed; the agency would "in no way have any authority to regulate news."

According to Schwarz's plan, thousands of already-established journalists in the field today would be required (**Newspapers Publishers Auxiliary**, 9-10-74) to pass an examination devised by the association, including any "character" test the national journalism association may require.

Another proponent of licensing of journalists is former Iowa Sen. Jack Miller. In a speech on professional responsibility to the New York County Lawyers Association, Miller said (**Des Moines Register**, 7-11-71)

> A reporter or. . .editor whose words can inform or misinform thousands of people has no examination to take. He can be hired. . .without even having to read. . .the canons of ethics of journalism. . .Why shouldn't he have to pass an examination by his peers to demonstrate his capability? Why shouldn't he have an oath to live up to the canons of ethics of his profession? Why shouldn't he be subject to having his privilege. . .to practice his profession revoked for unethical conduct?

Observing that "practically all professions are licensed under public law," Miller asks whether the licensing of journalists would be a form of "public censorship." Replying to his own question, he states (**Des Moines Register**, 7-11-71), "Well, that doesn't necessarily condemn it."

"As it stands now, the public has no guarantee of the quality and integrity of individual members of the press," writes Alan Kent Leahigh in a Freedom of Information Center Report (No. 262). He continues

> There is no way to be certain that the practitioner has met any training requirements or has demonstrated competence in his profession. The standards for police-issued press cards as commonly administered today are much too weak. They do not, for instance, certify that the holder has an understanding of basic social issues, such as minority frustrations, or that he has access to the man on the street or that he even appreciates the concept of objective reporting.

Arguments Against Licensing

One of the foremost critics of press licensing is educator and libertarian John Merrill. Merrill does not believe (**Editor & Publisher**, 10-21-78) that a high level of journalistic performance depends on a system of licensing or on a professional association.

In a speech he delivered to the Inter-American Press Association in Miami in 1978, Merrill cites objections to licensing of the press:

- Many writers would be excluded from contributing to journalism.
- Only a small group would be granted press freedoms.
- It would grant government an entry into the business and profession of journalism.
- It would lead to a restriction of pluralism in journalism and the variety of points of view.
- It could potentially lead to a scarcity of journalists if only graduates of accredited schools of journalism were permitted to work in the field.

Another opponent of press licensing is columnist Sylvia Porter, who believes (**Miami Herald**, 11-17-75) that licensing journalists would be a "giant step" toward government censorship in the United States.

Licensing would "kill our free society just as surely as a Soviet-type dictatorship would kill it," Porter says. "Instead of spurring a rise in our standards, it would invite arbitrary controls through intimidation by those in power."

Unlike the licensing of doctors and lawyers, the licensing of journalists involves communications — and the possibility that the news may be viewed as a "commodity" over which the government has control, Porter says. She argues that the United States probably still has the freest press in the world — "but there is no doubt that the federal government and the courts are gnawing more and more viciously at the First Amendment."

Porter raises the questions most frequently asked by those opposed to licensing of the press.

> If the licensing board is to consist primarily of Government officials, how free can those granted licenses be to investigate and criticize the officials? If the licensing board is to consist primarily of journalists "approved" by Government officials, how independent can that board be?

Conclusion

The debate on press passes and the licensing of journalist is far from over. Recent UNESCO proposals to license reporters have rekindled the controversy. The fundamental questions of which credentials are appropriate, who should issue the credentials and what guidelines should be used in determining the issuance or denial of press credentials remain unanswered. The fact that President Reagan's assailant apparently fired from within the designated press area may lead to tighter press restrictions. The disclosure of a

fictitious story winning a Pulitzer Prize may set up a hue and cry from some quarters demanding the certification of journalists.

Press passes have been generally accepted by the American media and public. The licensing of journalists has not. It will be interesting to see where the lines between the two are drawn.

FOOTNOTES

1. Daniel C. Carson, "For Sale: Press cards," feed/back, Winter 1975, p. 9.
2. Ibid.
3. Ibid.
4. Ibid.
5. Secret Service release.
6. Ed Dansereau, Secret Service agent, telephone call, 3-26-81.
7. John W. Warner, Jr., letter to author, 3-30-81.
8. Ibid.
9. Ibid.
10. Secret Service release, undated.
11. Ibid.
12. Ibid.
13. Stuart H. Loory, telephone call, 4-13-81.
14. Straus Editor's Report, N. 149, 6-19-72.
15. Stuart H. Loory, telephone call, 4-13-81.
16. Sherrill v. Knight, 3 Media Law Reporter at 1516.
17. Ibid at 1514.
18. Ibid at 1515.
19. Ibid at 1516.
20. Ibid at 1515.
21. Granite City Town Clerk, telephone call, 4-14-81.
22. Editor & Publisher 31 Jan. 1970,p. 21.
23. Strasser v. Doorley 432 F. 2d at 567.
24. Ibid at 569.